

**IN THE CIRCUIT COURT OF THE TWELFTH CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA**

STATE OF FLORIDA

CASE NO: 2019-CF-002995

v.

DAVID CHARLES BUNCIK

DIVISION: FELONY

NOTICE OF INTENT TO PARTICIPATE IN DISCOVERY

AND DEMAND FOR PRESERVATION AND ABILITY TO VIEW EVIDENCE

The Defendant, **DAVID CHARLES BUNCIK**, by and through his undersigned counsel, files this notice of his intent to participate in discovery pursuant to Fla. R. Crim. P. 3.220, and requests that the State Attorney of this Judicial Circuit furnish and disclose to the Defendant's undersigned counsel the following information and material within fifteen (15) days immediately hereafter:

1. All relevant written or recorded **statements** or signed or unsigned confessions or written summaries of oral statements or confessions, **made by the Defendant**. **If the State has no such written or recorded statements, but statements were made by the Defendant, then Defendant requests a summary of the statements made and the names of the witnesses who would testify as to their being made.**
2. All books, papers, documents, photographs, sound or video recordings, tangible objects, buildings, other exhibits which are intended for use by the State as evidence at the trial or were obtained from or belong to the Defendant.
3. A written list of the names and addresses of all persons (including police officers) whom the attorney for the State expects to call as witnesses at the trial in support of the State's direct case.
4. All relevant written or recorded verbatim **statements**, both signed and unsigned, **of any witnesses** known to the State. **If the State has no such written or recorded statements, then Defendant requests a summary of the testimony each witness is expected to give at the trial.**
5. All reports or records of prior convictions of Defendant, and reports or records of prior convictions of persons whom the attorney for the State expects to call as witnesses. Defendant further requests all reports or records of prior convictions of those persons Defendant expects to call as witnesses, which must be produced within fifteen (15) days after receipt of Defendant's list of those witnesses.
6. All warrants which have been executed in connection with the case and the papers accompanying them, including affidavits, transcripts of oral testimony, returns, and inventories.

7. All material now known to the State, or which may become known, or which through due diligence may be learned from the investigating officers or the witnesses in the case, which is exculpatory in nature or favorable to the Defendant or which may lead to exculpatory material. This request includes the reports of any investigations or suspects other than the Defendant carried out by the Police Department, the Attorney General's Office, or any other police or law enforcement agency **to include but not limited to John Muir.**

8. Copies of all reports made by the appropriate law enforcement department.

9. All documents, records, or other evidence which relate to the charges brought against Defendant.

10. Copies of any writings or audio or video tapes recorded by any police official or department or other interested party dealing with the incident under which Defendant stands charged, including, but not limited to:

- a. police reports,
- b. patrol car video,
- c. jail video,
- d. alcohol influence reports,
- e. accident reports,
- f. witness statements,
- g. notes made by police officers, and

h. sworn reports to the Department of Highway Safety regarding Defendant's refusal to take a chemical, urine or blood test.

11. Names and addresses of any witnesses who may have information regarding the guilt or innocence of Defendant arising out of the incident under which Defendant stands charged.

12. Names of any police officers or other persons who informed Defendant of his Miranda rights, or were witnesses thereto, including the times and places where the rights were given.

13. The results of all chemical and field tests administered to Defendant, whether or not the results have been recorded, together with the name of the person who administered the tests and the time, location, and circumstances under which the tests were given.

14. Any other evidence obtained by observation of police witnesses intended to be used against Defendant at trial that is not part of a written police report furnished to defense counsel.

15. Any available evidence known to the prosecutor that would tend to negate the guilt of Defendant, mitigate the degree of the offense, or reduce the punishment, regardless of whether it will damage the State's case, including but not limited to any evidence that may show that Defendant's actions fall outside the statutory definition of driving "under the influence."

16. Defendant asks for the following information to check any breath test result if Defendant submitted to a breath test:

- a. the name of the breath instrument's operator,
- b. the date of his original certification,
- c. the date of his latest certification,
- d. **the dates and results of all simulator tests (if applicable) run by him or another person within twelve (12) months prior to the giving of Defendant's test that will verify the validity of the certification of the instrument in question,**
- e. the number of the breath instrument,
- f. the date and results of its last yearly certification,
- g. the date and results of the monthly breath instrument maintenance examinations for the months before and after the Defendant's examination,
- h. any repair records of the instrument,
- i. whether the instrument has been tested for radio frequency interference (RFI) and if so, the dates of the testing, the circumstances under which the testing was done, the person who tested the instrument, the RFI sources the instrument was subject to, and the distance each source was to the instrument,
- j. the location of the breath instrument,
- k. the ampoule lot number (if applicable),
- l. proof of certification of the ampoule lot (if applicable),
- m. the type of breath instrument (whether CMI or Federal Signal Corp. Intoxilyzer 4011, 4011A, 4011-AS, 4011-ASA, Intoxilyzer 500-; Intoximeter 3000 or any other breath testing equipment approved by the Florida Department of Law Enforcement; whether the breath testing equipment is on the Federal Government's Qualified Products List and whether the breath testing equipment is designed to make permanent record of the reading),
- n. whether ampoules were used in testing Defendant and the present location of those ampoules,
- o. assuming that the breath instrument is a mobile unit, the date its use in the mobile made was approved by the Florida Department of Law Enforcement,
- p. the time of day police officials took the Defendant into custody,
- q. the names of persons who can testify that they observed Defendant continuously for twenty (20) minutes (or other appropriate statutory or regulatory time period) prior to the taking

of his breath test, during which time he did not ingest alcoholic beverages or other fluids, eat, smoke or vomit,

r. the number of times Defendant blew into the breath analyzer and, if the number of times is less than two, whether any police official informed the Defendant that a second test was not required,

s. the timing device used to determine the time of the test, whether it has been certified, and, if so, proof of the certification,

t. assuming that similar tests were performed before and after the test was given to Defendant on the breath analyzer, the test dates and the names of persons who performed these tests before and just after the test was given to the Defendant,

u. assuming that the breath analyzer was inspected, serviced, checked for accuracy, and certified in proper working order, the dates and names of the operator or certification officer who did this just before and after the breath test was given to the Defendant,

v. the time of the first test and the result,

w. the time of the second test and the result,

x. whether the complete chemical test rights were read to the Defendant or whether he agreed to take requested chemical tests without a full reading of those rights,

y. assuming that complete chemical test rights were read, the officer or other person who read them when they were read, and under what circumstances, including location,

z. whether the person who read the rights received any indication from the Defendant that he did not understand his rights,

(1) whether Defendant was given a copy of the rights to read either before, during or after they were read to him, and

(2) whether any police officer or other person further explained Defendant's legal rights to him after the rights were read, and if so, what advice or explanation was given.

17. Whether the arresting officers gave the Defendant an opportunity to make a telephone call after his arrest, and if so, when the call was allowed and to whom and for what purposes.

18. If blood or urine testing was done, identify:

a. the testing method used,

b. the qualification of the person who performed the test,

c. the date, time and place of the test,

d. whether the test was performed using enzymatic analysis, colorimetric distillation, alcohol separation, or any other procedure,

e. whether Defendant signed any waiver form or other document allowing the results of the test to be released to the State,

f. whether a sample of the blood or urine has been retained for testing,

g. whether any preservatives, anticoagulants, or other agents were added to the blood or urine and, if so, the name of the preservative, anticoagulant or agent, the amount added, by whom it was added, and the time it was added, and

h. a complete list of all persons in the chain of custody and possession of the blood or urine sample.

19. Whether Defendant at any time indicated a desire to take any other chemical test to prove the alcohol content of his blood, and if so:

a. to whom the statement was made,

b. what additional tests were indicated,

c. who Defendant indicated he wished to administer the test,

d. whether Defendant was afforded that opportunity, and

e. what the result was.

20. The names of any police officers, officials, or lay persons in the company of Defendant within one hour after his arrest who would have been in a position to observe his gait, hear his speech, see his mode of dress, or generally observe his actions during that time. If Defendant was placed in lockup anytime within one hour of his arrest, this request includes a jail log so that defense counsel might question and subsequently present those witnesses if they are not called by the prosecution.

21. If photographs, sound recordings, or video recordings were taken of the Defendant or the accident scene:

a. the name of the person who took the photographs or acted as the technician for sound or video recordings,

b. the time the photographs, sound or video recordings were taken,

c. the location at which they were taken,

d. the circumstances under which they were taken,

e. the present location of any photographs, sound or video recordings,

f. the technical expertise of the person who took the photographs or who acted as technician for the sound or video recordings,

g. whether Defendant was read his Miranda rights or any other rights prior to the taking of the photographs, sound or video recordings, and

h. whether Defendant was given the opportunity to refuse to have his picture taken, or be subjected to sound or video recordings, and if so, what was said to the Defendant concerning his right to refuse.

22. If the Defendant was given a drug recognition and/or horizontal gaze nystagmus test:

- a. the name of the person who administered the test(s),
- b. the names of any witness or witnesses to the test(s),
- c. the location at which the test(s) was given,
- d. the circumstances under which the test(s) was given,
- e. whether any videotape was made of the test(s),

f. the qualifications, training and/or certification of the person administering the gaze test(s) (optometrist, physician, officer receiving field training),

g. whether the person administering the test(s) correlated the test(s) to a particular blood alcohol concentration and/or controlled substance and, if so, the particular concentration or controlled substance detected,

h. all factors used by the person administering test(s) to rule out causes of such test results other than blood alcohol concentration or controlled substance,

i. whether the person administering the test(s) has ever been qualified as an expert in said field and/or test(s) before any other court or administrative tribunal,

j. a log of their previous test results with corresponding documentation from applicable chemical test results (breath, blood and/or urine) to confirm or deny the accuracy of their analysis.

23. The Defendant's vehicle contains sensitive evidence that may be dissipated if not stored in a climate-controlled environment and all aspects of the vehicle remain in the exact same position they were in at the time of the accident. This includes but not limited to the drivers' seat position, airbag control modules, etc.

24. It is believed that FHP was placed on notice that John Muir fled from the accident scene and there is evidence, collected by a homeowners association that show him leaping into a community pool to destroy evidence and then barricading himself inside the community pool bathroom. The community in question is approximately 200 yards from the crash site.

PLEASE TAKE FURTHER NOTICE that:

1. The materials enumerated in this demand shall be produced for examination as provided for in the Florida Rules of Criminal Procedure within fifteen (15) days of this demand by either supplying copies or supplying the original items to Daniels & Hannan at the address listed below.

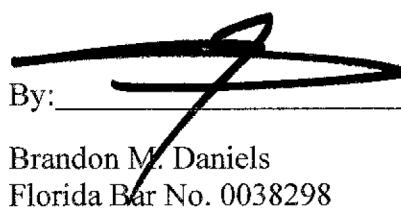
2. Upon failure to comply with the terms of this demand Defendant resumes his right to move, at any time prior to ordering trial, for an order prohibiting the State from introducing the undisclosed evidence at the trial.

3. If, prior to or during trial, the State discovers additional evidence or material previously requested or ordered which is subject to discovery or inspection under this rule, the State shall promptly notify the attorney for Defendant of the existence of this additional evidence or material.

4. If this notice is filed before the charging document is filed, then it shall be renewed automatically upon the filing of any such charging document. The purpose of the filing of this notice is to allow the Office of the State Attorney having jurisdiction over this matter to proceed expeditiously, and to place the State Attorney's Office on notice that such a request is being made.

NOTE: Pursuant to Fla.R.Crim.P.3.220(f), a Defendant's original demand for discovery imposes upon the State a continuing duty to disclose information relative to the above-demanded information.

Respectfully submitted,

By: 

Brandon M. Daniels
Florida Bar No. 0038298
Daniels & Hannan
11031 Gatewood Drive
Lakewood Ranch, FL 34211
Tel. (941) 932-8007
Fax (941) 866-2689
Email: Service@dhlawfirm.org
Attorneys for Defendant DAVID CHARLES
BUNCIK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished this September 13, 2019 to:

State Attorney's Office
2071 Ringling Blvd.
Sarasota, FL 34237
Email: rounds@scgov.net

Respectfully submitted,

By: 

Brandon M. Daniels
Florida Bar No. 0038298
Florida Bar No. 0667390
11031 Gatewood Drive
Lakewood Ranch, FL 34211
Tel. (941) 932-8007
Fax (941) 866-2689
Email: Service@dhlawfirm.org
Attorneys for DAVID CHARLES BUNCIK